

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RUSSELL ZINTER, et al;

CIVIL ACTION NO: 5:18-CV-680

Plaintiffs,

VS.

CHIEF JOSEPH SALVAGGIO, et al;

Defendants.

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PLAINTIFFS' RESPONSE TO DEFENDANTS' ADVISORY, ECF #64

NOW COME Plaintiffs, RUSSELL ZINTER, JACK MILLER, BRIAN HOWD, JAMES A. MEAD, JOSEPH BRANDON PIERCE, MARK BROWN, DAVID BAILEY, JUAN GONZALES JR., KEVIN EGAN, JONATHON GREEN, and JAMES SPRINGER, by and through their counsel, Solomon M. Radner and Excolo Law PLLC, respond to Defendant Chief Salvaggio, et al.'s Advisory to the Court (ECF #64), and in support thereof, state as follows:

1. Some Background.

Defendants filed their advisory essentially claiming that a plaintiff, whom they on their own designated as “lead plaintiff” unlawfully recorded a court proceeding and posted it on YouTube. They take it a step further and argue to the court that this action demonstrates what has become their theme of this case: a lawless kabal of anti-government anarchists who intentionally violate the law. Interestingly we agree that their Advisory encompasses what this litigation is

all about for a different reason. There are two extremely significant points of which the Court needs to be aware, contemporaneous to its consideration of the current Objections filed by Plaintiff, ECF #63:

- a. The defendants believe they found wrongdoing by one single plaintiff, so in order to make all plaintiffs look bad, they present him to the court as “lead plaintiff” despite this being a total fabrication, especially because this is not a class action and there is no “lead plaintiff” in this action. The defendants purposely mislead the court because they want the Court to see the plaintiffs as an “all or nothing” type of situation, IE that they have a leader, that they only do things as a group, and that everything they do is done as a group. Their point is to further try to show the Court that ALL phones of ALL plaintiffs and ALL text messages of ALL plaintiffs and ALL emails of ALL plaintiffs need to be examined by the defendants so that they can try to dig up some proof somewhere in some email or some text message of this criminal kabal, which is in fact imaginary, because as of right now there is no actual evidence of any such kabal. In fact, this was Chief Salvaggio’s testimony: that as of now there is **no evidence** that any of the plaintiffs have anything to do with any of the threats the police received, and the only ‘*evidence*’ as of yet was their presence at protests, and that is why Salvaggio and the defendants claim they need all the warrants to remain in place: to FIND evidence of a criminal enterprise for which as of now they have none.
- b. The Defendants point to this action of Mr. Miller as further proof that the police are right about the plaintiffs, based on the actions of their “leader” –

right that the plaintiffs are a bunch of unlawful anarchists who disregarded the law and flaunt their lawlessness on the internet for everyone to see. Now, if this is true, the plaintiffs in this case have a real problem. (SPOILER ALERT: The police are wrong, yet again, but I digress.)

- c. The defendants are in reality just doing more of the same. More salacious lies about the plaintiffs. More baseless accusations against law-abiding people whose only *crime* was protesting the Leon Valley cops, who have shown repeatedly that they don't believe in or respect the constitution.
- d. Bottom line is this: either the Leon Valley cops are doing more of the same baseless conclusions, unwarranted assumptions, and improper confirmation bias, or the plaintiffs (at least Plaintiff Miller) are doing more of the same lawlessness. Unfortunately, this exercise will show it is the cops who really need to stop harassing the plaintiffs and stop wasting the court's time in their efforts to defend their unlawful actions.

2. The Recording on YouTube.

The recording on YouTube was posted there by Plaintiff Jack Miller. So who is Jack Miller? Jack Miller is a former police officer who spends much of his time now trying to educate dirty cops on the law through his lawful actions, essentially to see if they know the law. Many cops know the law and don't engage in false arrests of Plaintiff Miller. The Leon Valley cops are some of the worst; they call fake press conferences, arrest everyone in sight, seize everyone's property, and trick state courts into signing ridiculous warrants based on lies. Plaintiff Miller is not "lead

plaintiff" and is not "James Miller" as he is sloppily called in the Advisory. He is merely a plaintiff and yes, he did post the recording on YouTube.

3. Does Jack Miller represent ALL Plaintiffs?

The answer to this is simple: NO. The defendants in their haste to throw stones at the plaintiffs will impute any actions of anyone to ALL plaintiffs if it could show them in a bad light. This is the entire basis of their so-called "need" to examine every single email ever sent or received, based on some threats they received that they cannot attribute to a single plaintiff. Again, this was Salvaggio's own testimony: that right now they have no evidence at all that any of the plaintiffs had anything to do with any of the threats, and that's why Salvaggio needs to be permitted to examine every cell phone and every email of every plaintiff, IE to FIND some evidence to support his wild conspiracy theory. This is also why the defendants point to one person's actions and attempt to trick the Court into believing that "These actions further display that Plaintiffs' zealot communicators lack of respect for the law and further attempts at electronic civil disobedience." ECF #64, page 3 of 3. According to the Defendants if one plaintiff does something wrong, it proves that the all plaintiffs are responsible.¹ Interesting way of thinking, but when your entire defense is based on a wild conspiracy theory, such arguments are predictable and necessary.

4. But.....where did the recording come from?

¹ Hopefully the defendants will continue to believe this throughout discovery when it becomes clear that at least some of the cops acted improperly – that is that if one cop acted improperly, then all cops acted improperly.

The defendants point to the YouTube posting, and as they have done throughout this action, automatically jumped to the worst possible conclusions: ALL plaintiffs participated in this unlawful action because ALL plaintiffs are a kabal of zealot communicators and anarchist anti-government criminals, who don't care about the rule of law. (These are terms used by the defendants!) But the defendants never stopped to ask themselves where the recording could have come from other than by illegally recording it, they would have learned that anyone can walk into the courthouse and go to the basement with \$31.00 and purchase a copy of the recording from the Court. When doing that, the Court will furnish something that looks like Exhibit 1. Because that is what Plaintiff Miller did.

5. So, let's review:

The defendants arrested the plaintiffs and seized their recording equipment on June 14, 18, and 23. After these unconstitutional and unlawful arrests and seizures went viral, the defendants claim to have received lots of threatening calls and social media threats, which they attribute without so much as a shred of evidence, to the plaintiffs. They previously claimed they need to maintain possession of all these recording devices because of several pending prosecutions. However, at a hearing recently the chief, defendant Salvaggio told us the truth: the devices being seized has nothing to do with the pending charges and everything to do with the defendants' wild and baseless conspiracy theory that the plaintiffs are a kabal of anti-government anarchists. The only basis for them to believe such an outlandish thing, ACCORDING TO SALVAGGIO'S OWN TESTIMONY, was the plaintiffs presence at constitutionally protected protests. The defendants have maintained

possession of these devices and are even attempting to read every single email ever sent by every plaintiff based solely on their imaginary wild conspiracy theory. Attached as Exhibit 2 are warrants, executed by the Defendant police department, obtained through tricking judges and magistrates into signing them by presenting knowingly false affidavits, of the following items:

- a. All google information for Plaintiff James Freeman including every single email ever sent or received
- b. All google information for Joseph Pierce, Jonathon Green, Earl Worden, and Jason Green, including every single email ever sent or received
- c. All google information for Bao-Quac Tran Bguyen including every single email ever sent or received
- d. All information contained on ZTE Cell phone, seized in May 2, 2018
- e. All information contained on Red Nikon CoilPix B500 Camera seized on May 2, 2018
- f. All information contained on Canon Powershot Ultra, Nikon CoolPix, Black iPhone, White iPhone, Hero Session Go Pro SD Card, Hero Session Go Pro SD Card, Cobra Device SD Card, Logitech HD 108 Camera, Canon Vixia HF R600 Recorder, Misco SDHC Memory Card, Sandisk Ultra 4GB, Blue Aurinia Thumb Drive, I Power Tower
- g. All information contained on Grey/Blk LG Cell Phone, seized on 6/23/2018
- h. All information contained on Canon Vixia HFR 800 video Recorder, seized on 6/23/1028

- i. All information contained on Apple iPhone SN ending SS356, seized on 6/23/2018
- j. All information contained on Black Samsung Cell Phone SS ending KCA8P, seized on 6/23/2018
- k. All information contained on Red Motorola Flip Phone SN ending 68025, seized on 6/23/2018
- l. All information contained on Pink iPhone 8 Plus, seized on 6/23/2018
- m. All information contained on Samsung Galaxy J7 cell phone seized on 6/23/2018
- n. All information contained on Samsung Galaxy SS ending 59541, seized on 6/23/2018
- o. All information contained on DVC Digital Camera and accompanying Ultra Sandicsk Memory Card, seized on 6/23/2018
- p. All information contained on Samsung Galaxy S8 SS ending 39230, seized on 6/23/2018
- q. All information contained on Go Pro Hero 2 Camera and accompanying SanDisk Memory Card, seized on 6/23/2018
- r. Black Sumasung Phone J3 Luna, seized on 6/23/2018
- s. Canon Vixia HFR600 Video Recorder and accompanying SD Card, seized on 6/23/2018

The plaintiffs on the other hand claim they were simply protesting the police and that they are not responsible or supportive of the people making threats to the police, and further that there is no lawful basis whatsoever to have been detained,

arrested, or had their property seized. The plaintiffs claim that the defendants are making baseless assumptions without any supporting evidence whatsoever, and are lumping all the plaintiffs with lawless threat-making criminals, without any evidence supporting such a thing.

6. Now, let's sum it up.

Plaintiffs *agree* with the defendants' advisory to the extent that it is a good indication of what has been taking place but Plaintiffs' offer a different conclusion: The defendants *continue* to make unwarranted accusations, evidence-less assumptions, and baseless claims to make the plaintiffs appear like an unlawful kabal of anarchists, when in reality the smallest amount of investigation shows the truth. But this case is not about the truth for these defendants; it's about character assassination and conspiracy theories. They have no time for truth. (Undersigned counsel, upon learning the origin of the YouTube recording, did in fact call the clerk to order a copy of the disc on 11/14/2018.)

As if the false arrests weren't bad enough; as if the malicious prosecutions weren't bad enough; as if the unlawful seizure of dozens of pieces of property wasn't bad enough; as if the defendants' atrocious attempted invasions of privacy into every single email ever sent or received isn't bad enough; the defendants yet again showed the court their true colors and yet again demonstrated to the court that nothing they say about the plaintiffs can be trusted.

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Dated: November 14, 2018

Respectfully Submitted,

EXCOLO LAW, PLLC

/S/ Solomon M. Radner

Solomon M. Radner (*pro hac vice*)

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PROOF OF SERVICE

On September 14, 2018, the undersigned served this notice on all known parties of record by efiling it on this Court's efiling system which will send notice to counsel of record for all parties, with the exception of the Doe defendants who have yet to be identified.

/s/ Solomon M. Radner